

Town of Eddington

906 Main Road Eddington, Maine 04428

SELECTMEN'S MEETING TUESDAY March 3rd, 2015

MINUTES

CALL TO ORDER & FLAG SALUTE: Joan Brooks called the meeting to order at 6:00 p.m.

ROLL CALL: All Selectmen Present

UNFINISHED BUSINESS: Review of Ordinance

PUBLIC ACCESS: Larry Langille – Spoke about the last meeting where setbacks were discussed. He wanted to know where the 1500ft came from. Point being, the report has proven that the reason for this arbitrary number which kills the project, that the moratorium was enacted for. 1000ft is the limit for public drinking water and is more than enough for private drinking water wells in his opinion.

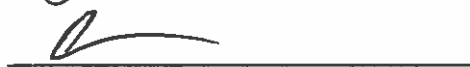
Frank Arisimeek – The 1500ft setback will affect lots of other projects, not just this one and believes it is simply unreasonable.

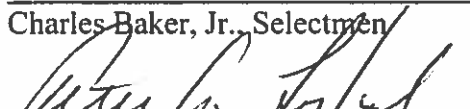
Ralph McLeod – Representing his son James McLeods. He believes the setbacks should be 1500ft. or more. Questioned Joan Brooks story regarding a cracked cellar wall due to blasting, then changing it to a tractor that backed in and hit it. He asked which story was correct. She said she made the comment in error.

Ray Wood, Jr. – When a pre-blast survey at a ½ mile away from a blast site, there is a reason. 1500ft is not unreasonable considering the DEP checks it out to a ½ mile, for a reason. Keep it away from the people.

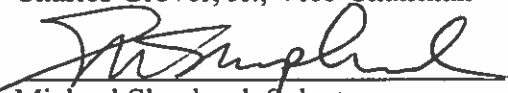
Larry Langille – Referenced the Cal Tran study, and how it recorded little to no energy at 900ft. out. Still getting reports of damage further out during a delayed blast, which isn't possible. A pre blast survey, set out at a ½ mile away, helps to protect contractors, it is important to go out that far, to cover all basis.


Joan Brooks, Chairman


Charles Baker, Jr., Selectmen


Peter Lyford, Selectmen


Charles Grover, Jr., Vice-Chairman


Michael Shepherd, Selectmen

Frank Arisimeek – Would hate to see these two families be the only ones, for the board to set the setbacks for the entire town.

Joan Brooks – It was a marvelous effort to get 400 people to come to a meeting, however it's only a percentage of 2200 residents.

Mark Deroche – Resident in favor of the quarry.

Bob Cicone – Does not see this project as any benefit to our town, other than to be that of an annoyance.

Larry Langille – Resources are owned by landowner, not the town, just like someone who owns trees. No need to set arbitrary setbacks so high that it kills the operation. This isn't just about Hughes and Eddington is setting the highest setbacks in the state, for a small town.

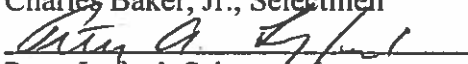
Andrew Hamilton, Attorney for Hughes Bros. – Benefits to Community; Host community benefits, working with the community, to make sure there was a reasonable ordinance in place and agree not to have the application advanced or processed. The planning board rejected the offer and set a moratorium. He is concerned the town is backing itself into a corner. What's the basis for the 1500ft setback? When you measure the 1500ft, it lands dead center of the project, which means it will take the project without just compensation. What about just compensation to Hughes Brothers for the value of the property that may be taken. There is no rational, technical or scientific basis for a 1500ft setback. Advice from town's attorney says there is a mixed bag on whether or not there can be an amendment on the floor at the town meeting. He asked the Selectmen not to act tonight, and advance this to town meeting. Taking of private property without just compensations, which could propose legal action. He would suggest an amendment on the floor at town meeting, for a 1000ft setback from a public water supply.

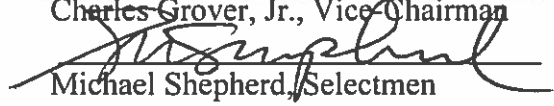
Jessica McCluskey – How about just compensation for the property owners. That is something for the board to think about and consider as well.

Ralph McLeod – Spoke about research done by Ray Wood, Sr., and how this project would result in a loss of value 4.3 million in residential property values, each year this quarry is in business. \$270,000 is what his son's house is valued at, he stands to lose about \$85,000 in property value, if the project goes in. What gives them the right to take that value away from my son? They blocked the only access road, and that is their way of being friendly?

Frank Arisimeek – The quarry is already there and operational now, this 1500ft setback will not make the quarry go away.


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Michael Shepherd, Selectmen

Andrew Hamilton, Atty. – Asked Ralph McLeod for a qualified appraisal, or any supporting documents regarding his statement of value, or devalue, on properties.

Tom Vanchieri – Spoke on the Cal. Tran Study and how it was used as a vehicle to get the setbacks going. We as a board settled on 1500ft which we thought was reasonable, considering most residents wanted it to be higher. Enough with the Cal Tran Study, it wasn't the basis for our decision.

Larry Langille – Going back to the tape at the meeting where the setback was determined, the study was on the table, and discussed between Tom & Gretchen, and then it was set at 1500ft.

Brian Butlier – During the process of buying his house in 2005 or 2006, Frank and David were working on buying the farm house from Audrey, and making the road a town road and putting in a subdivision behind his property. He never read the ordinance, he doesn't believe Audrey, who was Town Manager for a long time, probably ever read the entire ordinance. He would like to see everyone stop beating the dead horse and let the town decide.

Susan Shane - Spoke to Larry Langille regarding the Cal Tran study presented by Tom Vanchieri. She believes she is on the recording as stating the 1500ft. The study said at 300 meters, the noise complaints dropped off, so she calculated 500 meters into feet to get the 1500ft and the discussion went from there. We need to walk away from the study, yet make clear where the numbers actually came from, which was Susan Shane. Shane agreed that Langille was correct in that Mineral Extraction is allowed in the Rural Agriculture District. When setting up the Land Table Use Chart, mineral extraction was an allowed use, yet when the neighborhood changes, there has to be some concern and sometimes the land usage needs to change as well. In the addendum there is a provision to be recorded in the registry of deeds regarding active MEO's. It's bigger than just whether or not it's fair.

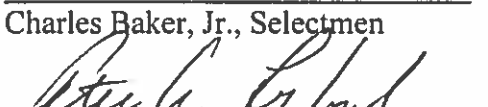
Andrew Hamilton, Atty.- Doesn't feel like the he said she said will matter as much as what the judge says. There is a reason for the rule of law, which deals with fairness. It matters what is done with property rights for all involved. If this community did not want mineral extraction, they should have said so. No one has any technical justification, or a bases, for a 1500ft setback, which has the effect of killing this project.

Gretchen Heldmann – Ordinances are not scientific reports. This is not a research study that is going on.

Ralph McLeod - Spoke about the effect this proposed project is already having. McLeod talked about how a property on Fox lane was for sale, and three people had been rejected by banks, due to the fact a quarry may go in next door.


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David McCluskey - Did some research over the weekend on different municipalities in the state. Just within the town names starting with A & B and out of 26 towns he reviewed, he found that eight towns didn't have mining operations in their town. Three towns that didn't allow any operation to go below the seasonal high water table, which we have been told that does not happen in this state. Some limited quarries to 10yrs, limit height of stock piles, limit the amount of cubic yards of material to be removed each year, etc. It was what fit best to the town and what was approved by the residents.

Andy Hamilton – A judicial determination, RE: Inverse Condemnation, will most likely result, if this 1500ft setback is put in place. Suggests the board pause and reflect on such a strong legal question.

Susan Shane asked Andy Hamilton - When you speak of Hughes brothers potentially being compensated for their killed quarry project. Does the court not look at other possible uses to the property? Hamilton reverted back to the 11th hour when the 1500ft was placed, and its unique fact pattern.

Tim Woodcock, Atty. – Reviewed previous comments regarding the setbacks, pointing out what he thought could be potential issues, or basis for a court case.

Susan Brawley – Encourages the town's attorney to attend these meetings, and hopes that the Selectmen and Planning Board make sure the town is well protected within these ordinances.

Susan Shane asked Joan Brooks to read aloud the document from Andy Hamilton, Title 30-A S4356. RE: Moratorium Extensions. Russell will confer with counsel on clarification of such an additional extension period.

The Board discussed whether or not they were or if they even could, make recommendations to planning board now that the warrant was signed as written, and a Public Hearing set for March 19th, 2015. Amendments up or down with the setback amount, cannot be made at a Special Town meeting.

Andy Hamilton – Why jam yourself into a box, calling a town meeting, when you can reconsider a previous vote to advance the warrant article, to town meeting.

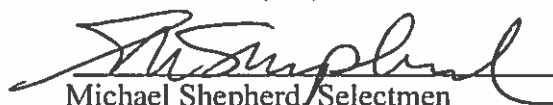
Charles Grover, Jr. spoke about how it was a timing issue, and there was not enough time to make changes and have more public hearings before Special Town Meeting. Grover also stated he was not happy with the town attorneys timing, and this was not the first time information was submitted at the last minute. Grover suggests a talk, face to face, between the town attorney and the selectmen.


Joan Brooks, Chairman


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Michael Shepherd, Selectmen

Charles Baker, Jr. pointed out the sections he had questions on, or would like to see changed.

Mineral Extraction Operation Addendum, would like that clarified on the first page, where it will be referred to as MEO, throughout the addendum.

In Sec. 2001.2 – Loam screening, less than 5000sq. ft., Does that affect Franks existing quarry? No, this is an exemption from the addendum.

A word change from “deemed”, to “considered”. Susan explained, yes it was a suggestion by the towns attorney, as a better choice of words.

Existing Operations be notified – Charles Grover questioned how all existing operators of gravel pits will be notified.

Document referencing would be helpful. (IE: Geotechnical methods)

2002.2.2.4 Security at Sight - Safety signage

2002.2.2.8 No hazardous materials – C. Baker said it should reference where it came from.

2002.2.2.11 Standard Document – Perhaps add the wording “per DEP” .

2002.2.2.13 The References in documentation, not ambiguous.

Contours at 2ft intervals vs. original has 5ft intervals, in the reclamation plan.

(Gretchen – it had to do with slopes of final area).

2002.2.2.16 Performance Guarantee – How do we guarantee if it’s going to be enough money.

(Gretchen – you could hire a 3rd party engineer to review the submitted plan & they could help define the amount) 2005.2 Sending registered letters.

2007.1 Permits from another entity expiring in 2 yrs. from date of issuance.

2008.2.11 Sections A, B, & C. – perhaps add in what the agencies are, such as IFW, etc.?

Page 14 – C. – Ground Water, is that referencing federal drinking water? Yes.

2008.2.5.2 Who determines wetlands? They are stated on the resource map.

Buffer Strips – Maintained by Landowner? Yes. Maintaining as close to its natural condition, 6 months before the operation started.

2008.2.8.5 – “Grubbed” (can we use another word?) According to State rules, No, it’s what it needs to be. 2008.2.12.4 – Fine Schedule. There hasn’t been any fine schedule, because this hasn’t been approved yet. The selectmen would set what the fines are. It protects the town, so they aren’t paying the entities. 2008.2.12 – Who determines noxious odors. Trained Sniffers at the State level.

Setback of 1500ft reduced and brought back to 1000ft, and go double what the state standards are for setbacks. Joan agreed with the 1500ft being reduced to 1000ft. Mike Shepherd would like to see them stay the same.

2008.2.14.1 Blasting or Scaling, what is scaling? A way of treating stone, for safety, so pieces aren’t falling or cracking. 2008.2.14.9 Stockpiles, can they leave these? No, not to be saved, if not needed for reclamation. 2008.2.15.15 Public Safety Official, defined in Zoning. (IE: Sherriff)


2008.2.16.1 Recognized all holidays, asking for some definition on all recognized holidays.

2008.2.16.2 Change wording of “sand and gravel”, to materials.

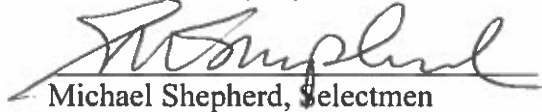
2008.2.16.4 Repetitive to 2008.2.15.15? Yes, and it was noted.


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Mike Shepherd pointed out the sections he had questions on, or would like to see changed – Time limits for permits. Used the town of Hancock's ordinance as a template. Suggesting a time frame for the permit itself. Recommended not using federal holidays, as Charles Baker had mentioned.

Recommended suggestions to Planning Board, to be put on Record. Susan thanked the board.

PUBLIC ACCESS: Andy Hamilton asked Board to reconsider their prior action, putting this document to the voters at a special town meeting. Suggested the board reconsider the decision to advance this document to a warrant article when the document has clear issues that put the town in jeopardy, killing the Hughes project, which could lead them to legal action.

Jessica McCluskey and Ralph McLeod asked the board not to feel threatened by a lawsuit.

Andy Hamilton – Read a letter from Janet Hughes (copy to be included in minutes.)

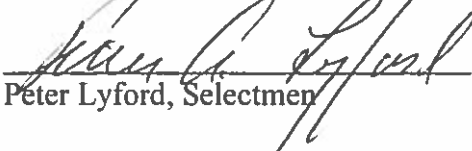
Discussion regarding the reasons why the Boards could not attend Blasting site invites.

Russell was asked if he could find out from the towns' attorney if the moratorium can yet again be extended.


ADJOURNMENT: Motion to adjourn at 9:00 p.m., M. Shepherd / P. Lyford Vote 5-0.


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